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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,107	12/06/2001	John Wirth JR.	3584-7	3906
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NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/004,107

Applicant(s)

WIRTH, JOHN

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example, Claim 1 recites “said low resolution scan file providing a display of said catalog page with sufficient detail to allow recognition of at least products imaged on said catalog page.” Examiner notes that this limitation fails to particularly point out and distinctly claim the size of a low-resolution image. In contrast, the claim recites a subjective limitation dependent on, for example, the eyesight of a user. What constitutes sufficient detail to allow recognition for one person is not necessarily the same for someone with better or worse vision.

By way of a second example, sufficient detail to allow recognition of at least products imaged can vary based on a shopper’s desires. For instance two shoppers both wishing to purchase a duffle bag may require a different resolution in order to provide sufficient detail to allow recognition of the products. For one “sufficient detail” may be the general size and color. Whereas the second may want “sufficient detail” to recognize the number of pockets, the type of shoulder strap, the type of material, etc.

Based on these arguments, it is the position of the Examiner that the subjective nature of this claimed limitation fails to properly put the public on notice as to avoid infringement. As such the claims are rejected under 35 USC 112.

Examiner notes that Applicant as currently amended the claim to recite “using a predefined reduction ratio.” Applicant asserts in the remarks made with the current amendment that this was done to overcome the rejection under 35 USC 112. Upon review of Applicant’s declaration, Examiner finds that a reduction ratio does not define the size of the image. Rather, it merely defines the ratio of the low-resolution image to the high-resolution image. As the claims fail to include a definite size for either the high or low-resolution image, the reduction ratio does not overcome the subjectivity problem as the size of the image is still defined by the language discussed above (i.e. “low-resolution scan file providing a display of said catalog page with sufficient detail to allow recognition of at least products imaged on said catalog page”).

Examiner further notes that independent claim 50 includes the language rejected in the previous Office Action (i.e. “is reduced to a size that is as small as possible, while still providing a display with sufficient detail . . .”). Examiner points this out as this language was amended out of all the other independent claims. As such Examiner once again points out the arguments made in the previous Office Action:

Claim 50 recites the limitation “said low resolution file is reduced to a size that is as small as possible, while still providing a display with sufficient detail to allow recognition of at least products imaged on said catalog page” on lines 9-11. Examiner finds that this limitation lacks clarity and precision. Further, Examiner finds that the language of the claims is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement.

Examiner notes that the limitation is relative to the person doing the recognizing. An image size which allows recognition to one user may not be the same as that of another user. Additionally, this limitation is dependent on the technology used. The larger the screen and the better the resolution would impact size of the image based on this claim. As Applicant has no control over the technology used by the customer, it is unclear how Applicant can make it "as small as possible." Further, in light of new technologies that may be present in the future, the open ended nature of this limitation (i.e. "as small as possible") renders the claim indefinite.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over harolds.com (hereinafter Harolds) in view of Parulski et al in further view of Image Splitter.

Harolds teaches a method of browsing a product catalog via a telecommunications network (e.g. the Internet) comprising for each page of said product catalog, storing in a first device connected to said network a file containing a low resolution scan of said catalog page, each of said catalog pages containing at least one image and text for identifying and purchasing products presented on said catalog page, said low resolution scan displaying said image and text in the format of a printed catalog page.

Examiner notes that users of the Harolds website are shown a low resolution scan of a catalog page (see pages 8-10). These pages contain images of products as well as text descriptions. Users can select a particular item from the page by clicking on that item (see for example the “Descending Garden Dress” and “Cartoon Daffodil Skirt” as highlighted by Examiner on page 8).

Upon clicking on a particular product from among the low resolution picture of the catalog page a user transmits a request via a URL for a detailed product presentation. The detailed product presentation, transmitted to user, is a high resolution image of the product selected by the use (see pages 11 and 12).

The detailed presentation page contains at least one link for purchasing product as well as an order data block containing ordering information (see page 11 for Examiner’s annotations).

Examiner notes that Harold’s is silent as to the specifics of how the low-resolution scan is generated, particularly whether or not it is based on a predefined reduction ratio. Parulski teaches creating low resolution index images of high resolution based on predefined reduction ratio (see column 4, lines 1-18). Parulski teaches this predefined ratio as useful to speed up the process. It would have been obvious to one of ordinary skill in the art to modify the low-resolution scan of Harold’s to be based on a predefined reduction ratio relative to the high resolution scan. One of ordinary skill in the art would have been motivated to modify the reference in order to speed up the download times.

Harold's further does not specifically teach a separate low-resolution scan of said catalog page. In fact as pointed out by Applicant Harold's teaches pages 2 and 3 as one low resolution scan (same with pages 4-5 and 6-7).

Examiner submits a product called Image Splitter, available prior to the effective date of the present application. Image Splitter allows a user to split an image into multiple images. Image Splitter teaches this is used to dramatically speed up loading of images included in an HTML page.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use Image Splitter to split the image of two catalog pages of Harold into separate scan files for each page. One of ordinary skill in the art would have been motivated to make such a modification in order to dramatically speed up loading of images included in an HTML page.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-82 have been considered but are moot in view of the new ground(s) of rejection.

Applicant asserts that Harold's does not anticipate a separate low resolution scan for each page of a product catalog. Examiner notes that this newly amended feature has been addressed in the rejection above. It is believe that the Office's position is clear with respect to this issue.

Applicant further asserts that it is not possible to pull a separate "detailed product presentation" for each product image on the pages. Examiner respectfully disagree. Examiner submits two Snag It images of the Harold's web page. These images show the image maps of

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each of the dresses on page 2 of the catalog. This is used to illustrate Harold's does in fact teach pulling up separate product presentations for each product (the two dresses) on the catalog pages.

Applicant asserts that Harold's does not allow a shopper to directly initiate the purchase of a product. Examiner disagrees. Applicant argues that Harold's includes link to an order form. Examiner argues that such a link clearly allows a shopper to directly initiate the purchase of a product (emphasis added), as the online for imitates the purchase of the product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783.

The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer

Examiner

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